AN ACT

CONSOLIDATE AND AMEND THE SEVERAL ACTS

RELATING TO THE

NIAGARA AND DETROIT RIVERS RAILWAY Co.,

BOTH BEFORE AND SINCE THE AMALGAMATION OF THE COMPANIES FORMING THAT COMPANY.

22 Victoriæ, Cap. 90.

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1859.

ANNO VICESIMO-SECUNDO

VICTORIÆ REGINÆ.

CAP. XC.

An Act to consolidate and amend the several Acts relating to the Niagara and Detroit Rivers Railway Company, both before and since the amalgamation of the Companies forming that Company.

[*Assented to 4th May*, 1859.]

Preamble.

WHEREAS the Niagara and Detroit Rivers Railway Company have prayed that the several Acts relating to the incorporation of the said Company should be amended and consolidated, and it is reasonable to grant the prayer of said Company: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

Charters of the Woodstock and Lake Erie Railway, and Harbour Company, 10, 11 V. c. 117,—and of the Amherstburgh and St. Thomas Railway Company, 18 V. c. 182,—the Acts amending the same, 16 V. c. 229,—18 V. c. 179,—19, 20 V. c. 74,—19, 20 V. c. 113,—and the Act of amalgamation 22 V. c. 118, and the Deed therein mentioned, repealed.

1. That the several Acts of the Parliament of this Province, hereinafter mentioned, that is to say: An Act passed in the tenth and eleventh years of the Reign of Her Majesty, Queen Victoria, intituled, *An Act to incorporate the Woodstock and Lake Erie Railway and Harbour Company*;—also, an Act passed in the sixteenth year of the Reign of Her said Majesty, intituled, *An Act to amend and extend the Charter of the Woodstock and Lake Erie Railway and Harbour Company*;—also, an Act passed in the eighteenth year of the Reign of Her said Majesty, intituled, *An Act to amend the Charter of the Woodstock and Lake Erie Railway and Harbour Company*;—also, an Act passed in the last mentioned year of the Reign of Her said Majesty, intituled, *An Act to incorporate the Amherstburgh and St. Thomas Railway Company*;—also, an Act passed in the nineteenth year of the Reign of Her said Majesty, intituled, *An Act to amend the Act of incorporation of the Woodstock and Lake Erie Railway and Harbour Company*;—also, an Act passed in the last mentioned year of the Reign of Her said Majesty, intituled, *An Act to amend and extend the Charter of the Amhersiburgh and St. Thomas Railway Company*;—also, an Act passed in the twenty-second year of the Reign of Her said Majesty, intituled, *An Act to amend the Charters of the amalgamated Company heretofore intituled "The Great South Western Railway Company," and to change its name to the "Niagara and Detroit Rivers Railway Company"*; and the Schedule thereto annexed, be and the same are hereby repealed.

Certain persons incorporated.

2. George Macbeth, M. P. P., the Honorable Michael Hamilton Foley, M. P. P., Honorable David Christie, M. L. C., Walker Powell, M. P. P., Sheriff Colin Munro, Andrew Thompson,

Thompson, Esq., John H. Cornell, Esq., John G. Kolfage, Esq., John McKay, Esq., John Smith, Esq., Thomas Rae, Esq., and Dr. Otis F. Presbrey, and such other persons as are or shall become Shareholders in the said Company, under the provisions of this Act, shall be a body politic and corporate in law and in fact, under the name of "The Niagara and Detroit Rivers Railway Company," and by that name they and their successors shall and may have continued succession, and by such name shall be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded, answering and being answered unto in all courts and places whatsoever, in all manner of actions, suits, complaints, matters and concerns whatsoever; and they and their successors may and shall have a common seal, and may change and alter the same at their will and pleasure, and by the same name of "The Niagara and Detroit Rivers Railway Company" they and their successors shall also be by law capable of receiving, purchasing, having and holding to them and their successors any estate, real, personal or mixed, to and for the use of the said Company, and of letting, conveying and otherwise departing therewith, for the benefit and on account of the said Company from time to time as they shall deem necessary and expedient.

Corporate name and powers.

Common Seal.

Holding property.

Line of Railway described.

3. The said Company are hereby authorized to construct a Railway with a single or double track from some point on the Niagara River, at or near the Town of Clifton, passing on such route as may be selected through the Towns of Simcoe and St. Thomas, to some point on the Detroit River, at or near the Town of Windsor or the Town of Sandwich, also to construct a Railway from such point on the aforesaid line of Railway as may be found most eligible, to the Niagara River, at or near Fort Erie; and also a Railway from some other point on the said first mentioned line of Railway to connect the same with Amherstburgh, on the said Detroit River Provided always, that so soon as the net revenues derived from the aforesaid Railways shall amount to eight per centum on the capital then expended the said Company shall construct, equip, maintain and work the line of Railway heretofore known as the Woodstock and Lake Erie Railway.

Branch Line.

Proviso: Woodstock and Lake Erie Line to be made, when, &c

Directors for the current year.

4. The persons named above being the Board of Directors of the Niagara and Detroit Rivers Railway Company, in office just before and at the time of the passing of this Act, that is to say, George Macbeth, M. P. P., Honorable Michael Hamilton Foley, M. P. P., Honorable David Christie, M. L. C., Walker Powell, M. P. P., Sheriff Colin Munro, Andrew Thompson, Esq., John H. Cornell, Esq., John G. Kolfage, Esq.. John McKay, Esq., John Smith, Esq., Thomas Rae, Esq., and Dr. Otis F. Presbrey, shall, until the next annual election of Directors of the Company, as hereinafter provided for, be the Directors of the Company incorporated under this Act, and until such election takes place, shall have, exercise and enjoy all the powers

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powers and rights they could or would enjoy if elected under this Act, and shall have all the powers by this Act conferred on the Directors so to be elected; and also the President chosen heretofore by the above named Board, the Vice President and other elective officers of said Company, shall hold their respective offices until their successors are chosen, as pointed out in the provisions of this Act.

President, and other Officers.

5. The capital stock of the said Company shall be ten millions of dollars, and shall be divided into shares of one hundred dollars each, and at least two millions of dollars of the stock shall have been actually and *bonâ fide* subscribed, and ten per cent paid thereon into some of the Chartered Banks of this province, to the credit of the Company, within one year after the passing of this Act; but the stock already subscribed in any of the Companies referred to in the first section hereof, on which ten per cent has been *bonâ fide* paid, and the ten per cent actually paid thereon shall be reckoned and included in such subscription and payment, and all such stock subscribed or alleged to have been subscribed before the passing of this Act on which ten per cent shall not have been actually and *bonâ fide* paid into one of the Banks aforesaid, shall be and his hereby declared to be illegal and void and to form no part of the stock hereby authorized.

Capital $10,000,000.

Part to be paid in one year.

Proviso: as to Stock already subscribed and partly paid

6. After the passing of this Act, and until the whole stock of the Company is subscribed for, the said Directors or any future Directors may open the stock book of the Company for further subscriptions for stock in the said Company, or may open other books for subscription for stock therein, and any person who shall subscribe in the said stock book or any other stock book or books opened by the above or any future Directors of this Company for shares, and shall at the time of such subscription pay in cash into the hands of the Treasurer or other officer or agent appointed for the purpose of receiving the same, (in the order of the said Board so directing said book or books to be opened,) ten per centum upon the amount of the whole number of shares he, she or they shall subscribe for, shall thereupon become a shareholder in the said Company; and any subscription not accompanied by the payment of such ten per centum, as aforesaid, shall be null and void.

Board may open stock book at any time until the whole Stock is subscribed.

Ten per cent. to be paid on subscribing.

7. And further, it shall and may be lawful for the Directors in the order directing the present stock book or other stock books to be opened, as above provided, to order that said book or books be opened in this Province or elsewhere out of this Province, as they shall think proper, for such subscriptions for stock, and upon such order being made, and before said book or books are opened, such order and a notice signed by the Secretary, stating that in accordance with such order, a book or books will be opened at the times, places and by the persons so appointed in said order, shall be published in the *Canada Gazette* and in the papers in which this Act provides

Board to give notice of opening stock book.

Notice to be given for four weeks.

for the publication of notices of special meetings, for four weeks prior to the day on which said book or books shall be so opened; and all and every the persons subscribing for stock in the above manner and form, and complying with the provisions of this Act, shall be shareholders in this Company.

Amount of each call.

8. Each and every call for money on the shares subscribed, shall be for ten per centum thereon, and not more than ten per cent shall be made payable within any sixty days.

Affairs of the Company to be managed by nine Directors.

When to be elected.

Notice for four weeks.

Ballot.

Ties.

Vacancies how filled.

Proviso: failure of election not to dissolve the Company.

9. From and after the election of Directors which shall take place next after the passing of this Act the property, affairs and concerns of the Company shall be managed by nine Directors to be chosen by the Shareholders on the First Tuesday of April in each year, in the manner hereinafter provided, and notice of such annual Election, and of the time and place of holding the same, shall be published four weeks before the day of Election in one newspaper published in the town of Simcoe and in one newspaper published in the town of St. Thomas, and in one or more of the daily papers published in the city of Hamilton; and all Elections for Directors shall be by ballot, and the persons who shall have the greatest number of votes at any Election shall be Directors; and if it shall happen that two or more shall have an equal number of votes, the Shareholders shall determine the Election by another or other ballots until a choice is made; and if a vacancy shall at any time take place among the Directors, by death, resignation or otherwise, such vacancy shall be filled for the remainder of the year by a vote of the majority of the Directors; provided always that in case it shall happen that an Election of Directors shall not be made on any day when pursuant to this Act it ought to have been made, the said Company shall not for that cause be deemed to be dissolved, but it shall and may be lawful on any day thereafter to hold and make an Election of Directors, in such manner as shall have been regulated by the By-laws and Resolutions of the said Company.

Aliens may be Directors.

No Shareholder to vote until he has paid the ten per cent and all calls.

10. Aliens as well as British Subjects, and whether resident in this Province or elsewhere, may be Shareholders in the said Company, and all such shareholders shall be entitled to vote on their shares equally with British Subjects, and shall also be eligible to Office as Directors in the said Company; But no Shareholder shall be entitled in person or by proxy to vote at any Election of Directors, or at any General or Special Meeting of the Shareholders of the said Company, who shall not have paid the aforesaid deposit of ten per centum and all calls due upon his stock at the time of such Election or Meetings.

Directors to make annual or semi-annual dividends of profits, and to

11. The Directors shall make annual or semi-annual dividends of so much of the profits of the said Company, as to them or a majority of them shall seem advisable, and once or oftener, as the Directors shall by By-Laws from time to

to time determine, in each year and exact and particular statement shall be rendered of the state of their affairs, debts, credits, profits and losses; such statement to appear on the books and to be open to the perusal of any shareholder at his or her reasonable request; which said statement or statements attested on oath, shall be annually submitted to the three branches of the Legislature within fifteen days after the opening of each Session of the Provincial Parliament; and also a statement of the tonnage of goods, freight and number of passengers that have been conveyed along the said Road. submit accounts and statements to Stockholders and the Legislature.

12. The number of Directors necessary to form a quorum for the transaction of business, may be regulated by the By-laws of the Company, and until such By-laws shall be passed, a majority of the Directors shall form such quorum. Quorum to be regulated by By-law, &c.

13. No Shareholder shall be eligible to be elected a Director under this Act unless he shall be a *bonâ fide* Stockholder in the said Company to the amount of at least one thousand dollars, and shall have paid up all calls on such stock. Qualification of Directors.

14. Each Shareholder in his own right shall be entitled to a number of votes equal to the number of shares which he shall have in his own name, two weeks prior to the time of voting. Each share to give one vote.

15. Any Director resident beyond the limits of the Province may appoint another Director to be his Proxy, and to vote for him at the Board, but no Director shall act as Proxy for more than two other Directors. The appointment may be as follows, or to the like effect: Directors may vote by Proxies being Directors.

" I appoint , of , Esquire, one of the Direc- Form.
" tors of The Niagara and Detroit Rivers Railway Company,
" to be my Proxy as a Director of this Company, and as such
" Proxy to vote for me at all meetings of the Directors of this
" Company, and generally to do all that I could myself do
" as such Director, if personally present at such meeting."

" Dated this day of
" A. D. 18 .

" (Signature.) A. B.

" Witness
" C. D."

16. The said Company shall have power to become parties to Promissory Notes and Bills of Exchange for sums not less than twenty-five pounds, and any such Promissory Note made or endorsed, and such Bill of Exchange drawn, accepted or endorsed by the President or Vice-President of the Company, and countersigned by the Secretary and Treasurer, and under the authority of a majority of a *quorum* of the Directors, shall be binding on the Company; and every such Promissory Note or Bill of Exchange made, drawn, accepted or endorsed by the President Company may become parties to Promissory Notes, &c.

President or Vice-President of the said Company, and countersigned by the Secretary and Treasurer as such, shall be presumed to have been properly made, drawn, accepted, or endorsed, as the case may be, for the Company, until the contrary be shewn; and in no case shall it be necessary to have the seal of the Company affixed to any such Bill of Exchange or Promissory Note, nor shall the President, Vice-President, or Secretary and Treasurer of the Company so making, drawing, accepting or endorsing any such Promissory Note or Bill of Exchange, be thereby subjected individually to any liability whatever; Provided always, that nothing in this section shall be construed to authorize the said Company to issue any Note payable to bearer, or any Promissory Note intended to be circulated as money, or as the Notes of a Bank.

Proviso: against Banking.

Deeds and Conveyances to be according to Schedule A.

Registration thereof, and fees.

17. All Deeds and Conveyances for lands to be conveyed to the said Company for the purpose of this Act, shall and may as far as the title to the said lands or the circumstances of the party making such Conveyance will admit, be made in the form given in the Schedule marked "A," to this Act annexed, and all Registrars are hereby authorized to enter in their Register books, such Deeds on the production and proof of execution thereof, without any memorial, and to minute such entry on the said Deed, and the said Company are to pay the said Registrar for so doing, the sum of two shillings and six pence, for each Deed registered and no more.

Number of Directors may be increased or reduced by Resolution of Shareholders.

Proviso: Board in London.

Proviso: as to powers.

18. The number of Directors of the Company may be increased or reduced, from time to time, by Resolutions of the Shareholders at any general or special general meeting of the Company, after due notice for that purpose, and at such meeting the order of rotation in which such increased or reduced number shall go out of office, and what number shall be a quorum shall be also determined; Provided that whatever be the whole number of Directors, one third at least may be English Directors, of whom the Company at any meeting of the said Shareholders called for that purpose in the usual manner, may form a Board in London, England, for such purposes as they in the said By-Law shall provide, or in any subsequent By-Laws may from time to time provide; Provided always that none of the powers to be so given shall be inconsistent with the provisions of this Act, but may be the same as the powers given in this Act to the Board generally.

Directors may open an agency in London, England, for the transfer of Shares, &c.

19. The Directors of the Company may, subject to the rules and regulations, from time to time, of the Board, appoint an agent in the City of London, England, with power to pay dividends, to open and keep books of transfer for the shares of the Company, and for the issue of scrip and stock certificates, and thereupon shares may be transferred from the Canada office to the London office, in the names of the transferees, in the same manner as shares may be transferred in the former office

office, and *vice versa*; and shares originally taken and subscribed for in Great Britain, may be entered upon the books at the London office, and scrip certificates be issued for them, and the agent or other officer shall transmit an accurate list of all such transfers and scrip certificates so issued to the Secretary or other officer of the Company in this Province, who shall thereupon make the requisite entries respecting such transfer and scrip certificates in the Register kept in this Province; and thereupon the same shall be binding on the Company as to all the rights and privileges of shareholders, as though the scrip certificates had been issued by the Secretary of the Company in this Province.

Transfers of stock made in England to constitute transferee a Shareholder.

20. Whenever any transfer shall be made in England of any share of stock of the Company, the delivery of the transfer duly executed to the Agent of the Company for the time being in London aforesaid, or to the Secretary of the London Board, if formed, shall be sufficient to constitute the transferee a Shareholder or Stockholder in the Company in respect of the share or stock so transferred, and such Agent shall transmit an accurate list of all such transfer to the Secretary of the Company in this province, who shall thereupon make the requisite entries in the register; and the Directors may from time to time make such regulations as they shall think fit for facilitating the transfer and registration of shares of stock, as well in this Province as elsewhere, and as to the closing of the register or transfers for the purpose of dividend, as they may find expedient; and all such regulations not being inconsistent with the provisions of this Act, and of the Railway Clauses Consolidation Act, as altered or modified by this Act, shall be valid and binding.

Regulations respecting transfers.

Company to keep a Stock Register.

21. The Company shall from time to time cause the names of the several parties interested in the stock of the said Company, and the amount of interest therein of such parties respectively to be entered in a book to be called "The Stock Register," and the several holders of such Stock shall be entitled to participate in the dividends and profits of the Company, according to their respective interest therein, and such interest shall, in proportion to the amount thereof, confer on the respective holders, the same privilege of voting, qualification and otherwise as would have been conferred by shares of equal amount in the capital of the Company, but so that none of such privileges, except that of participation in the dividends and profits, shall be conferred by the holding of any aliquot part of such amount of stock, unless such aliquot part, if existing in shares, would have conferred such privileges respectively.

Duplicate of Stock Register to be kept in England.

22. Duplicates of all registers of shares and debentures of the Company and of the Shareholders thereof, or of the stock register, which shall at any time be kept at the principal office of

of the Company in this Province (such duplicates being authenticated by the signature of the Secretary of the Company) may be transmitted to and kept by the Agent for the time being of the Company in London aforesaid, or in case of the formation of a London Board, by the Secretary to such Board.

Board may call special general meetings of Shareholders.

23. Whenever it shall be deemed expedient by the Board of Directors that a special general meeting of the shareholders shall be convened, either for the purpose of increasing the capital, or increasing or reducing the number of Directors, or forming a London Board, as aforesaid, or for any other purpose; the Directors may convene such meeting by advertisement and circular, in manner hereinafter mentioned, in which advertisement and circular the business to be transacted at such meeting shall be expressly stated; and such meeting may be held at the Company's chief offices in Canada, or such other place in this Province as the Directors shall appoint.

Forty days' notice thereof to be published in newspapers.

24. The notice of special general meetings of the Company, for any of the purposes aforesaid, shall be inserted in the same papers as are in this Act prescribed as necessary for convening ordinary general meetings of the Company, and also, if so ordered by the Directors calling the same, in one or more of the daily morning newspapers published in London, England, and a copy of such notice shall also be addressed by post to each shareholder at his last known or usual address, not less than forty days before the holding of such meeting.

Shareholders may hold ordinary general meetings half yearly.

25. If at any ordinary general meeting of the shareholders it shall be resolved that ordinary general meetings of the Company shall be held half yearly, such meetings shall thenceforth be held half yearly at such time and at such place in this Province as shall from time to time be appointed by the Directors.

All Stock on which 10 per cent. was not paid, on 16th November, 1858, to be null and void.

26. All and every subscription and subscriptions of stock in the Niagara and Detroit Rivers Railway Company, made before the sixteenth day of November, A. D., one thousand eight hundred and fifty-eight, and on which before that date ten per centum upon the whole amount of the shares in the capital stock so subscribed for was not paid into the hands of W. L. Smart, the Secretary of the Company, or into one of the Chartered Banks of this Province or some one of the Agencies of such Bank to the credit of the said Company, each and every such Stock subscription was and is null and void; and all and every *bonâ fide* subscription and subscriptions of Stock on which such ten per centum was so made into the hands of the said Secretary or into any of the said Chartered Banks, or the Agencies of such Banks, before the said sixteenth day of November last, whether such subscriptions of Stock were made in the Woodstock and Lake Erie Railway and Harbour Company, or in the Amherstburgh and Saint Thomas Railway Company,

Bonâ fide subscriptions on which 10 per cent. was paid before that time to be valid.

Company, shall be held and taken to be Stock subscribed in the Company created by or under this Act; Provided always, and it is hereby enacted and declared that it shall be lawful for the Board of Directors to accept and take a Surrender of any Stock heretofore subscribed for, or alleged to be subscribed for, in the Amherstburgh and Saint Thomas Railway Company, before its amalgamation with the Woodstock and Lake Erie Railway and Harbour Company; and any holder or supposed holder of such Stock shall be entitled as of right to relinquish such Stock if he shall apply so to do by a notice in writing to the Secretary or President of the Company hereby incorporated within thirty days after the passing of this Act; and such Stock shall thenceforth be held and taken to be, and to have been from the beginning part of the unsubscribed capital of the Amherstburgh and Saint Thomas Railway Company, and of the unsubscribed capital of the Niagara and Detroit Rivers Railway Company; and neither of the said Companies shall have any claim whatsoever for or in respect of any deposit or payment by way of deposit made or agreed to be made upon or on account of such Stock so relinquished as aforesaid.

Proviso: as to Stock subscribed for in the Amherstburgh and St. Thomas Railway, before its amalgamation with the Woodstock and Lake Erie Company.

27. The Company incorporated by this Act shall assume and pay to the Provincial Government the amount of the sums, with all interest and arrears of interest due or to become due thereon, loaned by the Towns of Woodstock and Simcoe, and the Townships of North and South Norwich, Windham and Woodhouse, to the late Woodstock and Lake Erie Railway and Harbour Company.

Company to assume debts of certain municipalities to Provincial Government.

28. The several clauses of The Railway Clauses Consolidation Act with respect to the first, second, third and fourth clauses thereof, and also the several clauses of the said Act with respect to "interpretation," "incorporation," "powers," "plans and surveys," "lands and their valuation," "highways and bridges," "fences," "tolls," "general meetings," "Directors, their election and duties," "shares and their transfer," "municipalities," "shareholders," "actions for indemnity and fines and penalties and their prosecution," "working of the Railway," and "general provisions," and also the several Acts amending the said Act as varied and modified respectively by the provisions of this Act, shall be incorporated with and form part of this Act; Except such provisions of said Railway Clauses Consolidation Act or of the Acts amending the same, as apply to matters and things for which express provision is made in this Act.

Certain clauses of 14 & 15 V. c. 51, as modified by Acts amending same, incorporated with this Act.

Exception.

29. The following shall be the amendments and modifications of the said clauses of the Railway Clauses Consolidation Act, so far as it relates to the said Company:

Interpretation of words.

Firstly.—As to "Interpretation" the words "Roadway" or "Railway" in this Act, or any other Act, affecting said Company,

"Roadway" or "Railway."

Company, shall mean the Railway, the station buildings, engine houses, turn-tables, and all the fixtures and lands of the Company used and occupied by them for Railway purposes;

"Rivers." *Secondly.*—As to Rivers—the sub-sections of section nine of the said Railway Clauses Consolidation Act shall be taken to mean and apply only to Rivers on which there is, at the time of the passing of this Act, such important lines of business or trade that the obstruction of the same by fixed bridges would have the effect of breaking up such trade or business, thereby causing a public injury;

"Map or Plan." *Thirdly.*—The map or plan mentioned in the first sub-section of section ten shall be a plan of the surveys, and it shall only be necessary to deposit, with the respective Clerks of the Peace of the respective Counties or Union of Counties through which the said Railways shall pass, the portion of such maps or plan and such book of reference as shall relate to each such County or Union of Counties of which such officer is the Clerk of the Peace, and the maps or plan and book of reference for such sections of the respective County or Union of Counties may from time to time be certified and deposited as by the said sub-section required, in such sections, and the location thus completed as the said Company shall see fit;

Company may take lands accidentally omitted in "Map or Plan." *Fourthly.*—Notwithstanding any thing in the ninth sub-section of the said section ten contained, the said Company may, without the consent of the proprietor, take such lands and so much thereof as shall be necessary and requisite for the purposes of said Company, whether the same shall be shewn on the original map or plan deposited as aforesaid, or not, or in the said book of reference, or shall exceed the quantity in said sub-section mentioned or not; but no such land so taken shall be applied by said Company to any other than the actual use of the said Company for the purposes of their Railway;

Corporations, &c., may convey lands to the Company. *Fifthly.*—The first sub-section of section eleven shall be taken to include and mean all Rectors in possession of Glebe lands, Ecclesiastical or other Corporations, Trustees of Church and School lands, Guardians appointed by law and Guardians in Soccage, Executors whether invested with power over the Real Estate of their Testator, or not, and Administrators of persons dying intestate, but at the time of their death seized of Real Estate, and any Deed by the above mentioned parties shall vest in the Company the fee-simple of the lands in such Deed described; Also, all the provisions of said section eleven shall as to arbitrations, compensation, payment into Court, &c., apply to the lands taken from such parties as are named above;

"Railway." *Sixthly.*—The word "Railway," in the second sub-section of the twelfth section, shall be taken to mean the Iron Rails of said Railway.

Company may hold land for gravel pits, &c.

30. Where stone, gravel or any other materials is or are required for the construction or maintenance of said Railway or any part thereof, the Company may, in case they cannot agree with the owner of the lands on which the same are situate for the purchase thereof, cause a Provincial Surveyor to make a map and description of the property so required, and they shall serve a copy thereof, with their notice of arbitration, on such owner, and the said Company may thereupon proceed and ascertain the compensation by arbitration as in cases of acquiring the Roadway, and the notice of arbitration, the award, and the tender of the compensation shall have the same effect as in case of arbitration for the Roadway; and all the provisions of the Railway Clauses Consolidation Act as varied and modified by this Act, and the several Acts amending the said Act, as to the service of said notice, arbitration, compensation, deeds, payment of money into Court, the right to sell, the right to convey and the parties from whom lands may be taken, or who may sell, shall apply to the subject matter of this section and to the obtaining materials as aforesaid, and such proceedings may be had by the said Company either for the right to the fee simple in the land from which said material shall be taken, or for the right to take material for any time they shall think necessary; the notice of arbitration in case arbitration is resorted to, to state the interest required.

Provisions of Railway Clauses Consolidation Act to apply as to obtaining and disposing of same.

Company may lay down temporary tracks to the same.

31. Where said gravel, stone or other materials shall be taken, under the preceding section of this Act, at a distance from the line of the Railway, the Company may lay down the necessary siding and tracks, over any lands which may intervene between the Railway and the lands on which said material shall be found, whatever the distance may be, and all the provisions of the Railway Clauses Consolidation Act and of this Act, except such as relate to filing plans and publication of notice, shall apply and may be used and exercised to obtain the right of way from the Railway, to the lands on which such materials are situated; and such right may be so acquired for a term of years or permanently as the Company may think proper; and the powers in this and the preceding section may at all times be exercised and used in all respects after the Railway is constructed for the purpose of repairing and maintaining the said Railway

Power to divert public roads on approval of Government Inspector of Railways.

32. It shall not be lawful for the said Company to divert permanently or change the line of any public road or highway until they have made a plan of such deviation, and submitted the same to the Government Inspector of Railways for his approval; a copy of which plan, signed by said Inspector, shall be deposited with the Clerk of the Peace of the County or United Counties in which said diversion is situate; and the said Company, upon obtaining such sanction and filing said plan, may divert such public road or highway, in the manner shewn on the said plan; and further, in every case of making

making a deviation, as above provided for, the Railway Company shall have all the powers for acquiring the land necessary for the location of the new road or highway, and for any materials necessary to construct the same, and shall possess all the powers given by this Act for the acquiring of land for ballast or materials; and also, the said Company in all such cases shall place the new road or highway as near as can be in the same state of repair as the original road so diverted may have been in at the time of such diversion; and in all such cases, if the Railway Company require it for their Railway purposes, and in that case only, they shall have the right to take possession of and use the original highway so diverted.

New road to be as good as the original road.

All level crossings to be repaired by Company on order of the Inspector of Railways.

33. And with respect to public road crossings, in any case in which the said Company shall permit any level crossing to get out of repair, it shall be lawful for the Warden, Mayor, Reeve, or the other officer of the Municipality having jurisdiction over said road so crossed, to serve a notice upon the said Company, in the usual manner requiring the repairs (specifying them) to be made, and if the said Company shall not forthwith make the same, the said officer of said Municipality may transmit a copy of the said notice so served, as aforesaid, to the Inspector of Railways, and thereupon it shall be the duty of the said Inspector, with all possible despatch, to appoint a day when he will examine into the said cause of complaint, and shall by Mail give notice to the said Warden, Mayor or Reeve and said Company, of the day he shall so fix, and upon the day so named he shall examine the said crossing, and his certificate, under his hand, shall be final on the subject so in dispute between the parties; And also, if the said Inspector shall determine that any repairs are required, he shall specify the nature of such repairs in his said certificate, and direct the Company to make the same, and the said Company shall thereupon with all possible despatch comply with the requirements of said certificate, and in case of default it shall be lawful for the Municipality, having jurisdiction over the Road so crossed by the Railway, to make the said repairs, and they may recover all the costs and expenses in so doing, in an action against said Company in any Court of competent jurisdiction, as money paid to the said Company's use.

In default, the Municipality may repair same and recover all costs, &c., in usual way.

Powers of Board of Directors to appoint agents.

34. The Directors of the said Company may appoint such and so many Agents in this Province and in any other part of Her Majesty's dominions and elsewhere, as to them shall seem expedient, and may, by any By-law to be made for such purpose, empower and authorize any such Agent or Agents to do and perform any act or thing, or to exercise any powers which the Directors themselves or any of them may lawfully do, perform and exercise, except the power of making By-laws; and all things done by such Agent or Agents, by virtue of the powers in him vested by any such By-law, shall be as valid and effectual to all

all intents and purposes as if done by such Directors themselves; any thing in any part of this Act to the contrary notwithstanding.

Real and personal estate of late Woodstock and Lake Erie Railway and Harbour Company and the late Amherstburgh and St. Thomas Railway Company to vest in the Company hereby incorporated.

35. All the houses, lands, tenements, hereditaments, premises, railways, harbours, including the Port Dover harbour, docks, channels, creeks, wharves, piers, buildings, erections, works, ways, waters, franchises, easements, rights, privileges, powers, goods, chattels, property, assets and effects, whatsoever heretofore belonging to the Woodstock and Lake Erie Railway and Harbour Company, and the Amherstburgh and St. Thomas Railway Company and the Great South Western Railway Company and The Niagara and Detroit Rivers Railway Company, or any of them, and not heretofore duly aliened or departed with by the said Companies respectively, shall be, and the same and every part thereof is and are hereby vested in the Company incorporated under this Act; and the said Company last aforesaid shall have, possess and enjoy all and every the matters above enumerated, and all the rights, privileges, contracts, agreements, acts, deeds, lands, tenements, premises, property and easements aforesaid, and this Company shall assume and discharge all the debts, engagements, obligations and liabilities of the above named Companies; And the said Company incorporated by this Act shall have the rights, powers, privileges and authority, with respect to the Port Dover Harbour and to the tolls and revenue, and the collection thereof, and to the said Harbour formerly vested in the Port Dover Harbour Company as fully and effectually as if the same had been invested in this Company; Provided always, that all contracts, if any there be, heretofore entered into with any party or parties for the construction of the whole or any part of the line of Railway, by the said recited Acts or by this Act authorized to be constructed, shall be and are hereby declared to be cancelled, null, void and of no effect.

Company to assume liabilities.

As to Port Dover Harbour.

Proviso.

Company may unite or make traffic arrangements with other Companies.

36. The Company may unite or make traffic arrangements with any other Railway Company or Companies in this Province, or with the International, and any other Bridge Company, or may lease the Railway of any other Company, with the necessary conveniences for the purposes of such union, occupation or traffic arrangements, and the Board of Directors of such Railways, and the International and other Bridge Company may agree upon such union, lease or traffic arrangements, and grant facilities for the same, and in case of disagreement as to the amount of compensation to be made therefor, or as to the facilities to be granted under such traffic arrangements, union or lease, the same shall be determined by one or more arbitrators appointed on application of either Company, upon notice to the other, by a Judge of one of Her Majesty's Superior Courts of Upper Canada.

Terms thereof may be determined by arbitration.

37.

Company may amalgamate, &c., with the Brantford and South-Western Railway Company.

37. The Brantford and South-Western Railway Company shall have power, and is authorized, in pursuance of any resolution to that effect, adopted at a special general meeting of the Shareholders, duly convened for that purpose, to amalgamate, connect or unite with this Company, or to lease or sell their line of road and appurtenances, or any part thereof, upon such terms and conditions as may be agreed upon by the said Companies; which said amalgamation, sale, lease or agreement, the said Brantford and South-Western Railway Company is hereby fully authorized to effect with this Company, upon resolutions to be adopted by a majority of their respective Shareholders, at a special general meeting to be convened for that purpose; Provided always, that all such rights, powers, terms and conditions as shall be set out in the deed of or agreement for such amalgamation, lease or purchase, shall alone be binding upon the Companies so amalgamating, leasing, purchasing or selling, and such amalgamation, purchasing or selling shall not render either Company liable for any consideration, matter or thing beyond the said terms and conditions; and the said Company may extend their line of railway to some point on the Grand Trunk Railway, and all the provisions of the Acts incorporating and relating to the Companies and all the provisions of the Railway Clauses Consolidation Act, as also the several Acts amending the said Act as varied and modified respectively by the provisions of this Act, and this Act, shall apply as effectually as if such extension or amalgamation had been mentioned and described in such Acts.

Proviso.

May extend road to Grand Trunk Railway.

Limitation of actions.

38. If any action or suit shall be brought against any person or persons for any matter or thing done in pursuance of this Act, such action or suit shall be brought within six calendar months next after such cause of action arose; and the defendant or defendants in such action or suit may plead the general issue only, and give this Act and the special matter in evidence on the trial.

Powers to construct Docks, and steam ferry boats on Detroit River.

39. The Company shall have full power under this Act, to purchase and hold river frontage, on the River Detroit, and to build wharves or docks thereon; also to construct, build or purchase and hold, such Steam Ferry Boats as they may require to enable them to convey passengers and freight across the River Detroit, or to such point on the American shore of Lake Erie, as may be necessary to enable them to connect with the various Railways running westward, and they shall have power to dispose of the same, if so inclined, or to charter any other Steam Vessel, not being their own property, to perform this service.

Railway to be completed in five years.

40. The said Railway shall be completed within five years from and after the passing of this Act.

Public Act.

41. This Act shall be deemed a Public Act.

SCHEDULE

SCHEDULE A.

Form of conveyance.

Know all Men by these Presents that I, A. B., of , do hereby, in consideration of , being the purchase money paid to me by the Niagara and Detroit Rivers Railway Company, the receipt whereof I do hereby acknowledge, grant, bargain, sell, convey and confirm unto the said Niagara and Detroit Rivers Railway Company, their Successors and Assigns, for ever, all that certain tract or parcel of land, situate, &c., (*here describe the land,*) the same having been selected by the said Company for the purpose of their Road, Harbour, Wharf or Pier, (*as the case may be*).

To have and to hold the said land and premises, together with the hereditaments and appurtenances thereto belonging, to the said Niagara and Detroit Rivers Railway Company, their Successors and Assigns for ever.

Witness my hand and seal, this day of , A. D., 18 .

Signed, sealed and delivered in presence of
C. D. A. B. [L. S.]

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